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# The Federal Land Policy & Management Act:

An Interim Report  
October 21, 1976 to June 30, 1977

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1977



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As the Nation's principal conservation agency, the Department of the Interior has responsibility for most of our nationally owned public lands and natural resources. This includes fostering the wisest use of our land and water resources, protecting our fish and wildlife, preserving the environmental and cultural values of our national parks and historical places, and providing for the enjoyment of life through outdoor recreation. The Department assesses our energy and mineral resources and works to assure that their development is in the best interests of all our people. The Department also has a major responsibility for American Indian reservation communities and for people who live in Island Territories under U.S. administration.

**U.S. DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**



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The Federal Land Policy and Management Act (P.L. 94-579), signed into law October 21, 1976, launches a new era for public land management in America's Third Century in which multiple land use principles are carried out for the greatest benefit of all people.

Implementation of the Act provides congressional support and continues the multiple use philosophy that began some 15 years ago in the Bureau of Land Management. The Federal Land Policy and Management Act defines this multiple use principle as:

"... the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people ... a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and non-renewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values ... harmonious and coordinated manage-

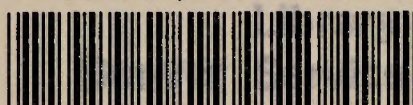
ment of the various resources without permanent impairment of the productivity of the land and the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output."

In one sense, the Federal Land Policy and Management Act (FLPMA) represents a codification of much of what the Bureau of Land Management (BLM) has been doing for years. However, change has also been significant; new workloads have been created; deadlines established for both old and new functions; and, a "new beginning" has been launched in many of BLM's traditional activities.

Set against its scope, the sheer volume of actions necessary to implement the new law is almost staggering. The Act replaces many of the 2,500 laws pertaining to public land management, and contains 57 sections and innumerable provisions that must be dealt with in the implementation process. Some provisions call for simple actions, but the majority

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call for lengthy rulemaking and require extensive public participation. Consequently, it will take perhaps five to 10 years to fully implement the new law.

Provisions of the Act will eventually affect nearly every phase of BLM operation. They establish goals and guidelines for inventory and identification of natural and cultural resources; land use planning; management of public lands and their resources; grazing fees, leases and permits; management of wild horses and burros; a comprehensive wilderness study, and various other BLM activities in resource management.

BLM functions in real estate management are especially affected. Among others, objectives and guidelines are set for the management of use, occupancy and development of public land; the withdrawal, disposal, acquisition and exchange of public lands, as well as the recordation of mining claims and the use of public land for recreational purposes.

Additional provisions will have an impact on BLM administration, the issuance of rights-of-way, and the enforcement of laws on public land.

### **FLPMA Policy Committee**

Healthy progress characterizes the first eight months of implementation under the direction of a FLPMA Policy Committee established by the Bureau within days after the Act was signed into law. The role of the Committee, as stated in its charter, is "to provide, at the Assistant Director

level, general oversight, leadership and coordinated guidance in implementation, and to recommend to the Director and Associate Director coordinated interpretation and implementation strategies."

The Committee, which consists of seven BLM executives, usually meets twice weekly to set priorities, establish schedules, make policy interpretations and recommend program policies to the Director, assign staff duties, direct development of new regulations and modifications of existing regulations, and to monitor progress. The panel also helps to set budget requirements, and reviews and approves all manuals, instruction memoranda and other communications about the Act.

Since other Interior offices, as well as the U.S. Department of Agriculture, are deeply involved in the implementation process, these, too, are represented on the decisionmaking panel as ex-officio members. Included are all BLM State Directors, a representative of the Office of the Assistant Secretary for Land and Water Resources, the Solicitor's Office, U.S. Geological Survey, and the Department of Agriculture's Forest Service and Office of General Counsel.

### **Setting Priorities**

The Policy Committee agreed at the outset that the schedule of implementation would be dictated by two primary factors. First, there



were deadlines for various actions set by the law itself. Secondly, and more important in the long run, priority would be given to new authorities that had the broadest effect on Bureau operations.

## **Implementation**

To date, all statutory deadlines for implementation that required immediate regulations or notices have been honored. Concurrent with their preparation and publication in the *Federal Register*, rulemaking and notices to implement other provisions of the Act are being developed by Divisions and Offices of the Bureau, some in cooperation with the Forest Service and other Interior Bureaus. Implementation progress is demonstrated by the following account, in chronological order, of rulemaking and notices that have been published. *Specific sections of the Act appear in parenthesis.*

## **FINAL RULEMAKING AND NOTICES**

### **Sunshine in Government (313)**

FLPMA provided the Secretary 90 days in which to publish "Sunshine in Government" regulations in accordance with the Act. Final regulations appeared in the *Federal Register*, December 23, 1976. BLM employees received on January 11, 1977, written instructions regarding compliance from the Director.

Except for those persons in specific identified positions of a non-regulatory or nonpolicymaking nature, Interior employees who perform any function or duty under FLPMA are required to file annual written statements of financial interests. Grants of rights to use, occupy or develop public land or its resources must be reported. This applies whether the rights are held directly by the employee or by a corporation, holding company or similar entity in which the employee is a partner, owns stock or holds some other interest. For instance, ownership of stock in a company that holds grazing permits on public lands must be reported.

Financial disclosure statements, the first of which were due February 1, 1977, cover each preceding calendar year, and criminal penalty is imposed by the statute for employees who knowingly violate the "Sunshine in Government" section.

### **California Desert Conservation Area (601)**

FLPMA calls for a comprehensive long-range management plan for the 25 million-acre California Desert Conservation Area to provide for its protection within a program of multiple use, including recreation, and the maintenance of environmental quality. The Secretary was directed to establish within 60 days after the Act's approval an Advisory Committee to help implement the program by counseling on matters such as land use planning, management,



use, development and protection.

An announcement of the Committee's establishment, along with a statement of its duties, was published December 23, 1976. The Committee has subsequently held meetings in San Bernardino, Barstow and Riverside to receive public comments on plans for the Conservation Area.

The Act also instructed the Secretary to submit as soon as practical a revised map and legal description of the Area to Congress. These official documents, considered part of the Act, were sent April 12, 1977, to the Senate Committee on Energy and Natural Resources and the House Interior and Insular Affairs Committee.

### **Grazing Fees (401)**

Since 1969, BLM and the Forest Service have implemented a program of annual adjustments of grazing fees to attain a comparability between those charged for private lands and those charged for public lands. The objective of the annual adjustments is to attain fair market value for public land grazing by 1980. Passage of FLPMA requires reassessment of procedures for establishing the amount of the grazing fee.

Under FLPMA, there can be no further increase in fees until Interior and USDA have completed and sent to Congress the results of a study of grazing values on National Forest and BLM lands. The report is due on or before October 21, 1977. Notice of the formation of a joint Task Force, along

with its charter, was published February 4, 1977, in the *Federal Register*. Also published was the Technical Committee Report: "Review of Public Land Grazing Fees," a study of grazing fees completed by the Departments in November 1976 which will be used as the basis of the report to Congress on or before October 21.

The notice also carried a schedule of seven public meetings held in March. Public participation was invited at the meetings, and written comments received until April 8.

Meanwhile, in accordance with the law, BLM announced January 4, 1977, that grazing fees for the grazing season beginning March 1 would remain the same as in 1976, except on those lands where grazing fees are set by competitive bidding.

### **Recordation of Unpatented Mining Claims (314)**

By requiring the recordation of unpatented mining claims with the Federal Government, FLPMA eliminated one of the most persistent and significant roadblocks to effective planning and management of public lands. Previously, inventory was next to impossible. Any attempt to determine the number of claims meant time-consuming searches of land records in local courthouses and on-the-ground inspection of millions of acres of land.

Under FLPMA, however, owners of unpatented mining claims, mill-sites or tunnels prior to October



21, 1976, are required to file a record of their claims with BLM State Offices within three years from that date; new locations of claims after October 21, 1976, must be filed within 90 days. Owners of partial interest or owners by transfer also are required to record their claims. Annual reporting of assessment work is also required. Failure to file constitutes abandonment.

Final regulations for recordation of unpatented claims, effective January 20, 1977, were approved January 19 and published January 27. In addition to implementing provisions of FLPMA, the regulations also cover a provision of the Mining in the Parks Act of September 27, 1976, requiring unpatented claims inside units of the National Park System to be recorded with the National Park Service within one year of the Act's effective date.

Instructions and materials to help State Offices implement recordation of mining claims have been distributed through Directives. These include step-by-step procedures for recordation, as well as details of the information that should accompany notices or certificates of location. State Offices have also received samples of a serial register page, an acknowledgment receipt, and a letter voiding a claim for failure to file within the prescribed time period. Guidance also was provided through a question-and-answer sheet concerning various internal procedures to follow in recordation.

By late June 1977, more than 64,000 unpatented mining claims had been recorded at BLM State Offices, of which, more than 90 percent were new claims. At the time of FLPMA's passage, an estimated 1.8 million unpatented mining claims existed on BLM administered public lands in the Western States.

### **Law Enforcement (303)**

In addition to giving BLM authority to conduct law enforcement activities, section 303 also directs the Secretary to issue regulations necessary to implement the provisions of FLPMA and provides that knowing and willful violations of such regulations shall be punishable by a fine of not more than \$1,000 or imprisonment for not more than 12 months, or both. This latter specification, coupled with the regulatory authority granted in section 302(b), was used to issue regulations establishing that violations of rules of conduct, in particular, violation of any closure order, constitutes a crime and makes the violator subject to criminal penalty.

The new regulations, published April 21, 1977, as final rulemaking, were prompted by wildfire dangers in the drought-stricken Western States, and by the theft of rare desert plants and defacement of archeological resources on public lands in Southern California and the Southwestern States.



## **Management of Wild Horses and Burros (404)**

Final regulations on the use of helicopters, fixed-wing aircraft and motorized ground vehicles in the management of wild horses and burros were announced May 25, 1977. Proposed regulations had been published January 25 and public comments received through April 22. Public meetings, hosted jointly by BLM and the Forest Service, were held in 10 cities. More than 100 individuals and groups made oral or written statements that resulted in a number of significant changes in the regulations that were finally adopted.

The new regulations, which stress that all vehicles must be used in a humane manner, allow the use of helicopters for inventory, observation, surveillance, and capture of wild horses and burros. Fixed-wing aircraft may also be used for inventory, observation and surveillance, but only as support in capture operations. Motor vehicles can be used in transporting animals, but not for driving or chasing them.

### **UPCOMING REGULATIONS**

#### **Grazing Leases and Permits (402)**

While FLPMA provides for the issuance of 10-year grazing permits and leases, there was not enough time to prepare and implement regulations before the new grazing year began March 1, 1977. Therefore, annual permits were issued for the 1977 grazing

season. Proposed grazing regulations have been prepared for publication shortly in the *Federal Register*. Following public comment, final rulemaking to take effect around January 1, 1978, will be published in late October or early November. The final rulemaking will set out the criteria to be followed in the issuance of 10-year grazing permits and leases.

#### **Rules for Visitor Use (102) (302) (303)**

The Federal Land Policy and Management Act and amendments to the Land and Water Conservation Fund (of 1965, as amended), brought the issuance of recreation permits under specific law for the first time.

Although the Bureau has granted special-use permits for recreational activities in the past, it has done so under general authority on land use delegated to field offices. Permit requirements and cost have occasionally differed among BLM offices.

Final regulations for permits for recreational use of public lands, in areas other than developed recreation sites and facilities, will be published in the near future. Proposed regulations appeared January 27. The final rulemaking reflects comments from about 850 persons and organizations.



## Projected Priorities

As of June 30, 1977, notices and final rulemaking to implement six provisions of FLPMA had been published, and final and proposed regulations to implement two additional provisions were completed and ready for transmittal to the *Federal Register*. In the immediate future, priority will be given to developing either new, additional or revised regulations affecting these program areas:

- Inventory and identification, including areas of critical environmental concern (201)
- Land use planning (202)
- Sales of land (203)
- Land withdrawals (204)
- Acquisitions (205)
- Land exchanges (206)
- Mineral conveyances (209)
- Management of use, occupancy and development (301)
- Enforcement authority (303)
- Wilderness study (603)
- Granting of rights-of-way (Title V)

Task forces are currently developing regulations and making recommendations to the FLPMA Policy Committee for implementation of the above provisions. Ad hoc task groups of public affairs officers are developing public participation plans and drafting information materials to facilitate their implementation.

## Directives

While regulations move toward their proposed and final stages, work of the Bureau continues as

usual, but with some variations. There is a constant flow of information from Washington headquarters to field personnel concerning FLPMA: interim guidelines, interpretations, definitions, revised operating procedures, budgeting requirements, permissions for actions, implementation progress reports, and public affairs aids.

Control over these memoranda is maintained through a system of numbered Organic Act Directives (OAD's) that require approval of the FLPMA Policy Committee, and can be signed only by the Director or Associate Director. By June 30, 1977, 70 OAD's had been issued to field personnel. Following are summaries of key Directives that provide guidelines for carrying out specific Bureau activities affected by FLPMA.

### SALE OF LANDS (203)

#### 1. Processing Existing Applications for Public Sale under Repealed Revised Statute 2455 (OAD 77-16; 2/9/77).

If the public sale was held and a final certificate issued before October 21, 1976, the disposal may continue and patent issued since valid rights are considered to have been established.

If the public sale was held before October 21, 1976, and the decision to hold the sale was fully supported by land use plans, final certificate and patent may be issued to the highest bidder. Section 203 of FLPMA should be cited



as authority, and an explicit finding must be made that the disposal criteria of the Act have been met.

All other pending applications are to be returned to the applicant with a letter of explanation, along with all filing fees and other payments which may have been received.

In evaluating the potential disposal of tracts identified during the public sale screening phase, field offices are encouraged to consider an exchange under section 206 of FLPMA. Through this means, resource management programs may be enhanced through consolidation of land areas.

## **2. Processing Existing Applications for Sale or Lease under the Repealed Small Tract Act** (OAD 77-23; 3/4/77).

Processing may continue if a final certificate was issued prior to FLPMA, or if the applicant is exercising a purchase option contained in an existing lease, or if equitable title has passed, pending survey.

Until final regulations are approved, all small tract leases expiring should be reviewed for possible renewal in accordance with existing rules and regulations.

Pending applications not involving vested rights must be returned to the applicant, along with all filing fees and other payments and a letter of explanation for the action.

## **LAND WITHDRAWALS (204)**

### **1. Federal Register Notice of Withdrawal Applications** (OAD 76-6; 11/3/76).

A notice of withdrawal applications must be published within 30 days after receipt of withdrawal application. Notice should state application has been submitted for filing, and the extent to which the land is to be segregated while application is being considered. Upon publication, the land is segregated to the extent specified in the notice. Publication, not noting in tract books, initiates segregation.

### **2. Pending Relinquishment, Revocation, and Restoration of Withdrawn Lands** (OAD 77-7; 1/24/77).

Since there is no mandate in the Act relating to revocations, existing instructions, regulations and procedures will be followed. Public land orders affecting such actions should cite FLPMA.

### **3. Processing of Pending Carey Act Applications for Temporary Withdrawal and Segregation** (OAD 77-20; 2/10/77).

Applications for temporary withdrawals after October 21, 1976, should be returned with an explanation that FLPMA repealed the Act of 1910 which allowed the temporary withdrawal of public lands so that proper surveys may be prepared and investigations made in preparation for the filing of an application by a State for



segregation of lands under the Carey Act.

Temporary withdrawals approved prior to FLPMA should be allowed to run their course and expire at the end of the one-year period.

Applications for segregation should not be approved or rejected until new Carey Act regulations are published as final.

#### **4. Processing Withdrawal Applications Pending October 21, 1976 (OAD 77-25; 3/4/77).**

Notice of Proposed Withdrawal and Notice of Opportunity for Public Hearing must be republished.

Public hearings must be scheduled and conducted in accordance with existing BLM Manual instructions.

Additional reports are required. If less than 5,000 acres, this information may be submitted in summary form with reference to detailed information in supporting documents contained in the official case file. If withdrawal application is for more than 5,000 acres, the information must be submitted in a format suitable for transmittal to Congress.

Duration of withdrawals must conform with the time periods specified in sections 204(c) and 204(d).

## **EXCHANGES OF LAND (206)**

### **Processing Existing Applications for Exchanges of Land (OAD 77-17; 2/10/77).**

The exchange authority of the Taylor Grazing Act was repealed by FLPMA, but processing should continue on State exchange applications filed before October 21, 1976, and on private exchange applications where a final certificate had been issued before that date. Processing can also continue on all other private exchange applications under the Taylor Grazing Act; however, the following steps must be completed to insure conformity with FLPMA:

Notification to the applicant that his application will now be processed under section 206 of FLPMA.

Preparation of a supplemental report containing a clear statement that the exchange is in the public interest; an analysis of the comparative value to the public of lands to be exchanged; a clear statement of the efforts expended in coordination with State and local officials to identify local needs which will be served; and a statement detailing the public involvement in determining the local needs which are to be served.

If the public was not afforded a well-defined opportunity for review and input, public meetings should be held in coordination with the applicant.

Compliance with section 207 of FLPMA must be documented; that is, an individual must be a citizen



of the U.S., and a corporation must be subject to the laws of a State or of the U.S.

Notification to State and local governments as required by section 210 of FLPMA must be given and documented.

Once it has been determined that the exchange meets requirements as to acreage and public interest, the requirement that the values be equal or equalized by cash payment up to 25 percent of the lands or interests transferred out of Federal ownership is mandatory. Until regulations are developed establishing when values may be deemed equal and funds for this purpose are appropriated, exact equalization must occur in all cases.

If value of offered land exceeds value of selected Federal land, an adjustment in acreage only may be made to equalize value; no money is available at this time for this purpose because none has been appropriated. If the value of the offered land is less than that of the selected Federal land, an adjustment in acreage may be made, or the offerer may use cash to equalize the value.

FLPMA did not repeal various other specific authorities under which pending exchange applications have been filed, with the exception of the law pertaining to Oregon and California land exchanges. Applications filed under these specialized statutes for specific situations (national forest exchange, national park exchange, etc.) should be processed in accordance with existing instruc-

tions and regulations. Provisions of FLPMA which are in conflict with more specific provisions of a prior Act shall not override the prior authority. However, the provisions of section 206 of FLPMA, which do not conflict, should be considered in the processing of such applications. Cases in the final stages of processing will require review on a case-by-case basis by Interior's Regional Solicitor or the Office of General Counsel of USDA to determine if provisions of FLPMA are applicable.

## **LAND CONVEYANCES (208)**

### **Processing of Allowed Desert Land Entries (OAD 77-6; 1/19/77).**

Certain provisions of FLPMA may modify procedures for processing applications under the Desert Land Act. However, entries which have already been allowed constitute a vested right and will be processed according to existing instructions.



## **RECREATION AND PUBLIC PURPOSES (212)**

### **Processing of Pending Applications under the Recreation and Public Purpose Act (OAD 77-2; 1/7/77).**

FLPMA amends the Recreation and Public Purpose Act with respect to maximum acreage allowances and certain criteria which must be met prior to disposal. New provisions which must be complied with are: (1) the land involved must not be of national significance, and (2) on conveyances of over 640 acres, at least one public meeting must be held and comprehensive land use plans and zoning regulations must have been adopted by the appropriate State or local authorities. Until guidelines are developed, judgment will have to be used in determining national significance. Such factors as suitability of the land for nomination to the National Register of Historic Places or whether the lands have any natural features which make them nationally unique should be considered. Case files should contain documentation of this consideration.

The annual limits on conveyances for recreational purposes are: States or State park agencies—no limit on sites, 6,400 acres total; political subdivision of a State—6,400 acres; non-profit corporation or association, 640 acres. Limitations on total acreage in each State—25,600 acres per

calendar year. There will be no charge for areas conveyed to States or political subdivisions or nearby municipal corporations for recreational purposes.

## **UNINTENTIONAL TRESPASS (214)**

### **Processing Cases under the Unintentional Trespass Lands Sale Act (UTA) (OAD 77-26; 3/8/77).**

All cases filed under the UTA for which final certificates were issued before October 21, 1976, should continue to completion and the patent issued. Those cases for which final certificates have not been issued will be processed by (1) preparation of all reports required prior to FLPMA; (2) preparation of an appraisal of the fair market value of the land as of September 26, 1973, as required by FLPMA; (3) acceptance of bids at public auction.

If no bids are received, the case will be closed. If at least one bid is submitted, a high bidder will be declared and contiguous owners will be provided 30 days for submission of preference rights at the 1973 fair market value. If no preference rights are asserted, the land will be appraised for current fair market value to see if high bid equaled that amount. If so, and all else is in order, the land is patented to the high bidder. Should the high bid be less than fair market value, the sale must be canceled.

By October 21, 1979, all applicants for lands under UTA will be notified whether the lands will be



sold, and if so, the price for which they will be offered. A detailed report on unsold lands, with justification, will be sent to Congress.

By October 21, 1981, all processing of UTA applications will be completed, including issuance of patents.

## **LAW ENFORCEMENT (303)**

### **1. Guidelines for Law Enforcement Activities (OAD 76-1; 11/4/76).**

To assure orderly implementation of FLPMA's dual authorization for BLM to conduct law enforcement activities and to enter into contractual agreements for enforcement assistance with local agencies, State Directors are advised:

- No employee is to conduct any law enforcement activity without the written consent of the Director.
- Prior to delegations being issued, each law enforcement employee will have to meet specific requirements.
- No law enforcement ranger delegations of authority and no contractual agreements for enforcement services will be entered into by a State Office until it has on board a full-time Criminal Investigator.
- The State Office Criminal Investigator will provide detailed guidance for all ranger activities that involve the carrying of firearms, arrest of persons, search and seizure,

execution of warrants, and any other process designated as a law enforcement activity.

### **2. Interim Law Enforcement Program Guidance (OAD 77-38; 5/12/77).**

Instructions and formats to carry out the new law enforcement authorities are spelled out in this 70-page memorandum to Bureau employees who will be providing line management, law enforcement, and staff support. Guidelines on employee conduct, responsibilities, training requirements, rules on the use of firearms, and other aspects of law enforcement are detailed. Forms for use in enforcement activities are also included. Once comments are received from the field offices, these instructions and formats will be incorporated in the BLM Manual.

## **COST RECOVERY (304/305)**

### **Collections and Fund Availability, Public Land Administration Act (OAD 76-10; 11/10/76).**

FLPMA provides new authority for road maintenance collections which is essentially similar to the repealed authorities of the Public Land Administration Act in that funds collected are immediately available for road maintenance obligations.

Funds collected as a result of timber forfeitures and timber trespass, and mineral disposal site rehabilitation deposits must now be



appropriated annually before they are available for obligation. However, unobligated balances in certain subactivities as of September 30, 1976, will continue to be available for obligation since they represent collections prior to passage of FLPMA.

## **SEARCH AND RESCUE (312)**

### **Visitor Assistance Policy (OAD 76-9; 11/26/76).**

FLPMA appears to obviate uncertainties concerning authority and responsibility of BLM with respect to search and rescue operations on public lands; pertinent language appears in this section of the Act. As a matter of policy, Bureau's personnel should not commit manpower and appropriations to large scale search and rescue operations except in cases of an emergency judged by the State Director to require Bureau assistance.

## **CORRECTION OF CONVEYANCE DOCUMENTS (316)**

### **Processing of Amendments of Patents or Documents of Con- veyance Applications (OAD 77- 24; 3/4/77).**

FLPMA grants more extensive authority than previously allowed for the amendment or correction of patents or conveyance documents. All applications for amendments should be processed as in the past. If, under existing instructions, the amendatory pat-

ent can be issued, it should be issued citing this section of FLPMA.

If existing instructions would require rejection of the application, the application should be placed in suspense and held for further instructions. No case should be rejected for errors that have been made in good faith.

Detailed instructions, perhaps on a case-by-case basis, will be issued. Meanwhile, questions about specific situations should be addressed to the Director.

## **MANAGEMENT OF HORSES AND BURROS (404)**

### **Public Meetings—Helicopter and Motor Vehicles Use (OAD 77-43; 5/31/77).**

Use of helicopters and motor vehicles for capture purposes requires a public meeting beforehand. Meetings may be statewide, may cover time frames up to a year in advance, and need not be devoted exclusively to discussion of the plans to use helicopters and motor vehicles. Entire gathering plan or herd management area plan may be the topic for discussion.



## **GRAZING FEES (401)**

1. **Collection and Distribution of Grazing Fees on Oregon and California (O&C) and Coos Bay Wagon Road (CBWR) Lands** (OAD 76-19; 11/23/76).

Based on the fact that a specific provision for the utilization of grazing fees received under the Oregon and California Act was included in FLPMA by one provision, only to be eliminated by a subsequent provision, grazing receipts from O&C lands and CBWR lands are to be held in suspense until the conflict is resolved by amending legislation.

2. **Availability and Use of Range Improvement Funds, FY 1977** (OAD 76-20; 12/28/76).

Provisions of FLPMA on the distribution and use of range improvement funds will not apply until FY 1978 because grazing receipt collections dating from passage of the Act will not be reflected in operating budgets until FY 1978. This means that in FY 1977 range improvement funds are to be utilized substantially as detailed in current instructions.

Final range improvement cost targets for FY 1977: \$8.5 million, including carryover.

## **GRAZING LEASES AND PERMITS (402)**

**Grazing Authorizations for 1977 Grazing Year** (OAD 77-9; 1/25/77).

FLPMA provides for the issuance of 10-year grazing permits and leases; however, there was not enough time to prepare and implement regulations before the beginning of the new grazing year on March 1, 1977. Consequently, all grazing authorizations for the 1977 grazing year would be issued on an annual basis. Current term permits and leases would continue uninterrupted; all renewals would be on an annual basis.

## **GRAZING ADVISORY BOARDS (402)**

**Interim Guidance on District Grazing Advisory Boards** (OAD 77-4; 1/11/77).

To advise BLM on range management, FLPMA calls for the establishment of Grazing Advisory Boards in the 11 western States in Districts where more than 500,000 acres of public land are open for commercial grazing.

A simple majority of domestic livestock operators using the public land must petition the District Manager to establish a Grazing Board. Once a petition has been received, the District Manager must prepare a charter and submit it to the Secretary for his approval. With an approved charter,



members of the Board are elected by ballot by livestock operators in the District.

Boards are to be composed of three to seven members who serve two-year terms. Their responsibilities are restricted by law; the only advice they can offer concerns the development of allotment management plans and utilization of range betterment funds. Except as provided by the Act, the Boards are subject to existing rules and Manual guidance governing Bureau advisory councils. Among these are requirements for publication of notices of meetings, open meetings, keeping records and minutes, and issuance of annual reports.

## **WILDERNESS STUDY (603)**

### **1. Primitive Area Designation (OAD 77-21; 2/16/77).**

Action on all primitive area investigations are suspended until guidance has been developed on the inventory process to be used to implement the wilderness preservation program established by FLPMA.

### **2. Wilderness Resource Consideration in Environmental Assessment Reports (EAR's) and Environmental Statements (ES's) (OAD 77-29; 3/15/77).**

All EAR's and ES's will include a discussion of potential wilderness resources and any existing national wilderness areas that might be impacted by the proposed action. Until specific guidelines are developed, EAR/ES preparation teams should use the existing wilderness definition guidance as found in the Wilderness Act, Section 2(c).

In EAR's, the wilderness resource will be handled under the component, "Human Values" on an equal level with "Landscape Character" and "Social Cultural Interests." When preparing an ES, the wilderness resource will fall under the "Land Use" component and discussed on the same basis as recreation, grazing, agriculture, and mineral resources.

## **RIGHTS-OF-WAY (TITLE V)**

### **1. Processing of Right-of-way and Temporary Use Applications (OAD 76-15; 12/14/76).**

Directive conveys standard grant language and instructs that each case file must contain these documents prior to granting:

- If area is roadless land of 5,000 acres or more, or a roadless island of public land, an analysis must be made of



available inventory data to determine whether the land involved has wilderness characteristics.

- An analysis of available information for impact on "areas of critical concern."
- Applicant's disclosure of plans, competition and ownership.

Recommended widths of rights-of-way, duration of grants, rental charges and bonding requirements are also discussed, as well as changes in regulations pertaining to processing right-of-way applications from other Federal Agencies, for tramroads and logging roads; Federal aid roads and highways; railroads; power transmission lines; radio and television sites; telephone and telegraph lines; water facilities; oil, gas and product pipelines; miscellaneous rights-of-way; and other necessary transportation or other systems or facilities which are in the public interest.

Special land use permit authority is no longer applicable. Temporary use permits will be granted for any temporary land uses associated with rights-of-way deemed appropriate by the Authorized Officer. Temporary use permits also may be issued for land uses not associated with rights-of-way. Until new regulations are approved, permits will be confined to short-term actions and/or temporary facilities where long-term tenure is not appropriate.

## **2. Right-of-Way Cost Recovery (OAD 76-15; 12/15/76).**

Except for the exclusion of management overhead, current policy on right-of-way cost recovery is consistent with FLPMA provisions. Holders of rights-of-way issued under Mineral Leasing Act of 1920 or FLPMA will be required to reimburse the U.S. for administrative and other costs incurred in processing the application, including the costs of determining environmental consideration. After issuance, holders of rights-of-way or permits must also periodically reimburse the U.S. for costs incurred by U.S. in monitoring the construction, operation, maintenance, and termination of authorized facilities on the rights-of-way or permit areas, and for protection and rehabilitation of the lands involved.

On right-of-way applications that cost \$10,000 or more to process, these costs will be recovered: Actual direct costs and indirect costs at 22 percent of actual direct costs.

The exclusion of "management overhead" from cost recovery does not mean that costs and time for supervisory personnel working directly on a right-of-way project is not cost recoverable.

## **3. Processing Pending Applications for Airport Leases (OAD 77-8; 1/24/77).**

Pending applications for airport leases will be processed under the Airport Leasing Act of 1928 or the Airport and Airway



Development Act of 1970. All procedures for processing will remain the same. FLPMA refers to the issuance or renewals or rights-of-way upon, under, or through the public lands for "airways."

This reference is deemed to mean gondolas, aerial tram or ski lifts, aerial conveyor belts, and other devices for transportation above the ground. It does not refer to airports, runways, or air terminal facilities which are covered under the Airport Leasing or the Airport and Airway Development Acts.

**4. Valuation of Non-linear Rights-of-Way for Communication Purposes** (OAD 77-30; 3/15/77).

In accordance with FLPMA, the annual rental for a non-linear right-of-way used for communication purposes shall be the fair market value of the rights issued as determined by the Secretary. The authority to issue and determine the value of such rights-of-way has been delegated to the Director of BLM and his authorized officers.

## **REPEALERS (TITLE VII)**

### **Disposition of Pending Homestead Applications** (OAD 77-18; 2/10/77).

FLPMA repealed the homestead laws except in Alaska where they will terminate on October 21, 1986. Entries allowed prior to October 21, 1976, created a vested right, and processing under the authority of the homestead laws should be continued. Patents will be issued under authority of the homestead laws if the requirements of existing regulations are met.

Where entries have not been allowed, no rights have been vested. In Alaska, pending applications should be processed in accordance with existing instructions, except that minerals must be reserved for the Federal Government. In the remaining States, filing fees and pending applications must be returned, with no offer of appeal.

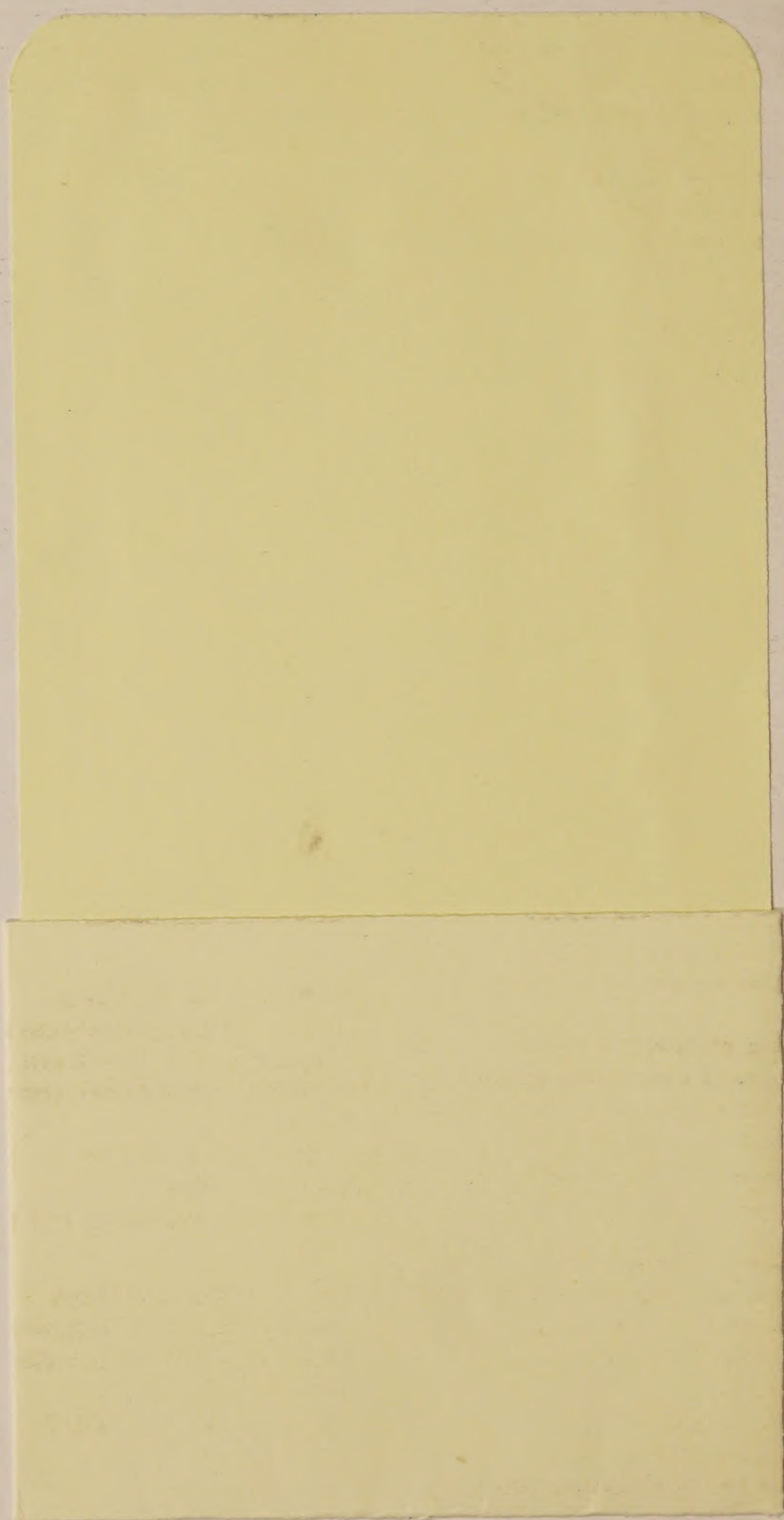














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